

## § 38.600

## 17 CFR Ch. I (4–1–13 Edition)

(1) For electronic trading, audit trail and recordkeeping reviews must include reviews of randomly selected samples of front-end audit trail data for order routing systems; a review of the process by which user identifications are assigned and user identification records are maintained; a review of usage patterns associated with user identifications to monitor for violations of user identification rules; and reviews of account numbers and customer type indicator codes in trade records to test for accuracy and improper use.

(2) For open outcry trading, audit trail and recordkeeping reviews must include reviews of members' and market participants' compliance with the designated contract market's trade timing, order ticket, and trading card requirements.

(b) *Enforcement program required.* A designated contract market must establish a program for effective enforcement of its audit trail and recordkeeping requirements for both electronic and open-outcry trading, as applicable. An effective program must identify members and persons and firms subject to designated contract market recordkeeping rules that have failed to maintain high levels of compliance with such requirements, and levy meaningful sanctions when deficiencies are found. Sanctions must be sufficient to deter recidivist behavior. No more than one warning letter may be issued to the same person or entity found to have committed the same rule violation within a rolling twelve month period.

### Subpart L—Financial Integrity of Transactions

SOURCE: 77 FR 36700, June 19, 2012, unless otherwise noted.

#### § 38.600 Core Principle 11.

The board of trade shall establish and enforce:

(a) Rules and procedures for ensuring the financial integrity of transactions entered into on or through the facilities of the contract market (including the clearance and settlement of the transactions with a derivatives clearing organization); and

(b) Rules to ensure:

(1) The financial integrity of any:

(i) Futures commission merchant, and

(ii) Introducing broker; and

(2) The protection of customer funds.

#### § 38.601 Mandatory clearing.

(a) Transactions executed on or through the designated contract market must be cleared through a Commission-registered derivatives clearing organization, in accordance with the provisions of part 39 of this chapter. Notwithstanding the foregoing, transactions in security futures products executed on or through the designated contract market may alternatively be cleared through a clearing agency, registered pursuant to section 17A of the Securities Exchange Act of 1934.

(b) A designated contract market must coordinate with each derivatives clearing organization to which it submits transactions for clearing, in the development of rules and procedures to facilitate prompt and efficient transaction processing in accordance with the requirements of § 39.12(b)(7) of this chapter.

[77 FR 36700, June 19, 2012, as amended at 77 FR 37803, June 25, 2012]

#### § 38.602 General financial integrity.

A designated contract market must provide for the financial integrity of its transactions by establishing and maintaining appropriate minimum financial standards for its members and non-intermediated market participants.

#### § 38.603 Protection of customer funds.

A designated contract market must have rules concerning the protection of customer funds. These rules shall address appropriate minimum financial standards for intermediaries, the segregation of customer and proprietary funds, the custody of customer funds, the investment standards for customer funds, intermediary default procedures and related recordkeeping. A designated contract market must review the default rules and procedures of the derivatives clearing organization that clears for such designated contract market to wind down operations,